Voices in and out of the Trump Administration have called for a shift responsibility for environmental protection to the states. Given that none of them has ever shown enthusiasm for *state* environmental protection, it's possible whether their rule concern is federalism or deregulation. (In fact, as NYU's Ricky Revesz points out, Pruitt has generally *opposed* state-level environmental protection.) Be that as it may, there are legitimate questions about precisely where to draw the boundaries between the federal and state roles. It's difficult, however, to see a case for a wholesale abrogation of federal authority in favor of the states. More than in difficult, in fact — it would be more accurate to say nearly impossible.

Before looking at the justifications for a strong federal role, it's worth noting that the present system by no means gives the federal government complete control. It's important to realize that states already play a very important role in environmental regulation. Under the Clean Air Act, the federal government sets national air quality standards, but states play the lead in translating those standards in implementation plans. Their discretion has been narrowed over time, in particular by the 1990 Amendments to the statute, but it is still considerable. Under the Clean Water Act, the federal government sets industry-specific standards for pollution control, but those standards are applied to individual plants by the states. Studies have shown that application and enforcement of the standards varies widely between states. And as I and others have repeatedly stressed on this blog, environmental progress often begins with innovative regulation at the state level. Still, there's no doubt that some major policy decisions are made at the federal level and that the states are subject to quite a bit of supervision in implementing those policies. In short, state flexibility is real but limited in some directions.

Why *not* turn *everything* over to the states? As you might imagine, there's been a lot of scholarship on the proper balance of authority between state and federal regulation. The argument for state regulation is that it can be more responsive to local conditions and preferences. The arguments for a federal role include the possibility that state governments may be too prone to capture by local major industries and that states may lack the expertise to regulate effectively. A subsidiary argument is that states might compete for new facilities with a race to the bottom in which the goal is to have the lowest standards of any competitor.

I want to focus, however, on the most straightforward argument: spillover effects. Most obviously, by failing to impose stringent regulations, a state could increase some kind of environmental harm in another state. Given that the Mississippi River drains a one-third swath out of the middle of the country, it's easy to see how this

could happen in terms of water quality. (And don't forget the Colorado, the Columbia, Chesapeake Bay, the Great Lakes, etc.)

In terms of air pollution, there are several key spillovers: climate change (a global impact), chemicals destructive of the ozone layer (also global), acid rain (over hundreds of miles), and ozone precursors (also over hundreds of miles). These problems are associated with most of the major sources of pollution: cars, power plants, factories. Controlling these spillovers inevitably means a big overlap with what local regulators might otherwise control.

We now know much more about these spillover effects than we did when the major environmental laws were passed in the 1970s. As it turns out, for instance, wetlands are often biologically and hydrologically connected with waterways more than we previously understood. Long distance transport of air pollution is much more important than people knew in the 1970s – for instance, California actually receives measurable air pollutants from China. These spillover effects don't prove that we've currently got the right balance between state and federal regulation, but they do make it implausible that the states could really take over.

In theory, spillovers could be managed by imposing a federal tax on sources based on the harm they do in downstream or downwind states. Obviously, that's not something that the Trump Administration is going to be supporting. In any event, implementing such a tax is complicated because of the difficulty of valuing and monitoring harm, because in at least some places it would have extend to small sources such as individual cars, and because the harm done by any one source may be in part a function of just what pollution from other sources is already there.

Besides environmental spillovers, there are also economic spillovers. Federal law limits state regulation of pollution controls in new vehicles and vehicle fuels, in order to prevent undue burdens on the national market. Because of similar concerns, state regulations are often met with legal challenges by firms claiming that states haven't taken into account impacts on interstate commerce. But if we can't trust states to take into account impacts on the national economy, we have little choice but to turn to federal regulators instead.

There are some additional practical problems. Many states don't have the resources to take over the technical aspects of regulation. They would need time to ramp up (assuming that the poorer states could manage it at all). Some states have very low average incomes. Others have very small population — Wyoming, for instance, has

about the same population as Sacramento so it’s environmental department isn’t likely to be much bigger or more expert than that a mid-sized city can afford. Finally, the transition would be very difficult. Industry has made billions of dollars of investment in reliance on the existing regulatory scheme. Sudden elimination of federal regulations could lead to chaos and could leave the most law-abiding firms at a competitive disadvantage.

Given all this, giving states a greater degree of flexibility would be worth a try. It’s easy to imagine thoughtful experiments along these lines with careful monitoring of results. Does anyone actually think that’s what Scott Pruitt and Donald Trump have in mind?